



## New Jury Instructions Aim to Simplify Legalese

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One way to refer to a pencil might be to describe it as “a communication utensil used to relay a thought from one individual to another.” Then again, it could be identified as simply “a writing instrument.” This is just one example of how complex language can be made clearer.

The Task Force on Jury Instructions aims to do the same to the language used in jury instructions, to make it easier for jurors to understand the law. In May the task force—which is

made up of judges, law professors, private and public attorneys, and linguistics and communications experts—released new jury instructions for public comment.

“The task force was charged with coming up with instructions that were more easily understood but remained legally accurate,” says James Ward, Associate Justice of the Court of Appeal, Fourth Appellate District, and vice-chair of the Task Force on Jury Instructions. “But that is not a simple thing to do. The law is full of complexity and is almost a language in and of itself.”

The newly drafted instructions include shortened sentences, direct language, and illustrative examples. For instance, the following definition appears in the new criminal jury instructions. “Circumstantial evidence proves a fact based on a logical conclusion. Here is an example of how circumstantial evidence works: A party proves Fact A, then argues that because Fact A is true, logically you should conclude that Fact B is also true.”

In civil trials, the difference between direct and indirect evidence can be confusing. The new jury instructions explain the difference with the following example. “Evidence can come in many forms. It can be testimony about what someone saw or heard or smelled. It can be an exhibit admitted into evidence. It can be someone’s opinion. There is really no end to the forms that evidence can take. Some evidence

proves a fact directly, such as testimony of a witness who saw a jet plane flying across the sky. Some evidence proves a fact indirectly, such as testimony of a witness who saw only the white trail that jet planes often leave. Each witness’s testimony is evidence that a jet plane flew across the sky. As far as the law is concerned, it makes no difference whether evidence is direct or indirect. You may choose to believe or disbelieve either kind. Whether it is direct or indirect, you should give every piece of evidence whatever weight you think it deserves.”

The draft instructions have only been sent out for comment and have not been approved or even considered by the Judicial Council. The new instructions represent approximately one-third of the total set of civil and criminal jury instructions used by California courts. The task force expects to complete a full set of instructions in the next two years.

“The goal was to have a significant portion done so people could see what the process is and get a flavor of how we are phrasing the instructions,” explained Carol Corrigan, Associate Justice of the Court of Appeal, First Appellate District, and chair of the task force. “We are hoping that our colleagues give us their feedback and suggestions for improvement. Thus far, preliminary responses look favorable.”

Judges, attorneys, law school professors, and any others interested in jury instruction reform are



The Task Force on Jury Instructions is working to simplify the instructions that judges give to deliberating jurors. Photo: Jason Doiy

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### VIRTUAL COURTHOUSE

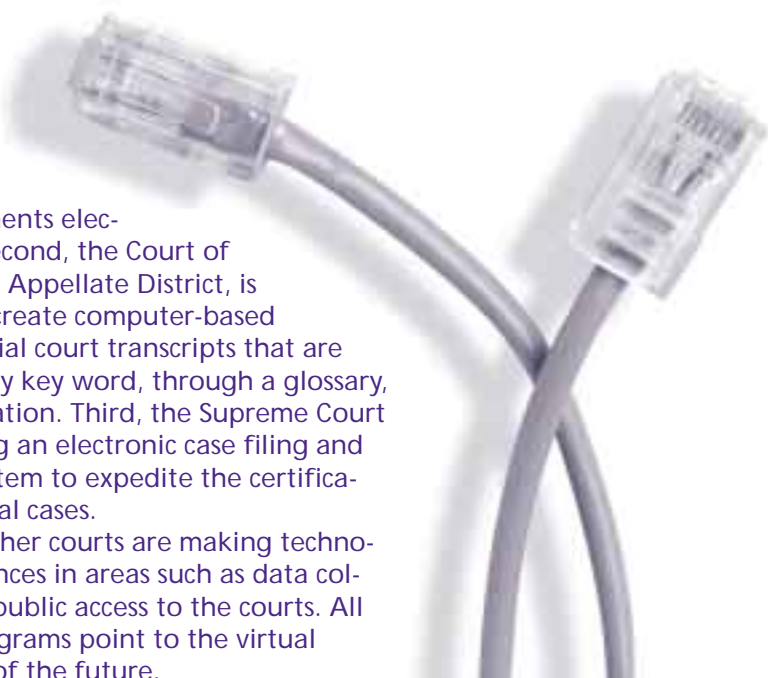
Advances in the relationship of technology and the law have already changed the way courts do business. More changes are on the way.

Governor Gray Davis has called on all branches of government to initiate efforts in the new realm of “e-government.” The U.S. House of Representatives in June overwhelmingly approved a bill—the so-called digital signature bill—that would give electronic contracts the same legal status as a signature on a piece of paper. And now even the U.S. Supreme Court, which has never raced to embrace new technologies, has its own Web site.

On pages 8 and 9 of this issue, *Court News* takes a look at how three court projects around the state are making use of new technologies. First, the trial courts are making strides toward electronic filing, or e-filing—including a pilot project in the

Superior Court of Sacramento County that allows litigants to file court documents electronically. Second, the Court of Appeal, First Appellate District, is working to create computer-based records of trial court transcripts that are searchable by key word, through a glossary, or by annotation. Third, the Supreme Court is developing an electronic case filing and indexing system to expedite the certification of capital cases.

Several other courts are making technological advances in areas such as data collection and public access to the courts. All of these programs point to the virtual courthouse of the future.





Chief Justice  
Ronald M.  
George

#### MESSAGE FROM THE CHIEF JUSTICE

## The Drug Court Movement in California

*The National Association of Drug Court Professionals presented Chief Justice Ronald M. George with its Leadership 2000 Award at the association's training conference in San Francisco on June 1. After accepting the award, Chief Justice George addressed the conference attendees on the development of drug court programs across the state. The following is an excerpt from that address.*

In 1997, the last time this annual program convened in California, a total of 46 drug courts were in operation or in the planning stages within our state. Today, more than 102 drug courts are functioning here, and additional facilities are in the works. When one considers that in only three short years the number of drug courts in our state has more than doubled, and that the number continues to grow, you can understand my enthusiasm for the work that you do, and for the opportunity to discuss some of the reasons for the warm embrace by the court system of drug court programs and where this movement is going. . . .

#### DRUG COURTS ARE EFFECTIVE

Drug courts concentrate on focused goals—reducing recidivism by providing individually tailored services and responses to assist offenders who have drug abuse problems. The rapid expansion of drug courts can be traced to one basic factor: They work. Their value can be measured directly in the lives of the individuals who have been helped to escape the cycle of drugs and failure that kept them as marginal members of society and might have ended in disease, incarceration, broken families, or even death.

Since becoming Chief Justice of California in 1996, I have had the opportunity to visit several drug courts and the privilege of attending some very memorable and moving graduation ceremonies. I have met with several drug court graduates, some of whom are in this room today. Their success stories are inspiring. Graduates of drug courts have returned to school, earned degrees, found stable housing, gotten off unemployment, left welfare, found new jobs, and once again become productive parts of their communities. Many graduates have been reunited with children removed from their care because of their addictions or drug-related crimes. Many are passing their wisdom on to others by helping in drug rehabilitation and drug court programs.

As many of these individuals know firsthand, drug and alcohol abuse play an enormous role in a majority of the criminal, family, and juvenile cases that come before our courts. Substance abuse affects more than the abuser—it affects his or her family, friends, and community. For example, a recent study by the National Center on Addiction and Substance Abuse at Columbia University found that in 7 of 10 child abuse and neglect cases in our nation, substance abuse was either the direct cause or a contributing factor. . . .

#### IMPROVING AND EXPANDING

In California, we have been actively pursuing strategies to make drug court projects effective. In 1996 I appointed an oversight committee chaired by Judge Patrick Morris of San Bernardino. It brought together an assortment of experts, including judges, coordinators, court administrators, treatment specialists, representatives from district attorneys' offices and public defenders' offices, and a drug court graduate. This committee was charged with providing information to the Judicial Council, the constitutionally created entity charged with oversight of and setting policy for the judicial branch in California, which I chair. The committee provided data and recommendations on funding, as well as proposed guidelines and directions based on the experiences of functioning drug courts. They did an excellent job of focusing our efforts and in assisting the council in developing a better understanding of the broader definition and potential application of "collaborative justice." This is a term that has come to include an assortment of innovative court programs that are aimed at improving access to services for individuals while providing better protection for the public and increasing the productive contributions of more members of society.

After the initial successes of the Drug Court Advisory Committee, the Judicial Council created a new, permanent committee that was given an expanded charge. The Collaborative Justice Courts Advisory Committee, chaired by Judge Darrell Stevens from Butte County, held its first meeting in March. It will be reviewing a varied menu of collaborative court models in order to make recommendations to the Judicial Council about their use and their structure.

The committee will be considering best practices in collaborative justice, evaluating the long-term effectiveness of these courts, considering means to secure funding and other necessary resources, working on educational programs and minimum education standards for practitioners, and generally developing criteria that can be used to effectively evaluate and implement collaborative justice courts.

Effective in 1998, the council also adopted guidelines for diversion drug court programs, which set forth procedures for preplea diversion proceedings.

#### FUNDING

Funding for these ventures is a key component of success. Many drug court team members double as grant writers, and many have developed the skills of an army supply sergeant [who is] asked, with no notice and no ready storehouse, to provide tools for a major assault. In California, we have been focusing on improving funding sources in several ways. I am pleased that this association of professionals has recognized and encouraged our efforts. We, in turn, have tried to expand and improve our ability to secure funding. In 1997, at the National Association of Drug Court Professionals training conference in Los Angeles, your association awarded to the Administrative Office of the Courts and the California Office of Criminal Justice Planning the first Partnership Award for Interagency Collaboration. In funding as well as in the collaborative courts themselves, the importance of interagency communication and cooperation cannot be overstated.

Our court system has continued its efforts in conjunction with the California Office of Criminal Justice Planning through the use of federally funded Byrne Block grants. These grants have enabled the Judicial Council to channel over \$3 million (to date) directly to California's drug courts. We anticipate renewed funding in the next fiscal year.

The California Legislature also has supported drug court programs. It enacted the Drug Court Partnership Act of 1998, joining the Judicial Council and the state Department of Alcohol and Drug Programs in an important effort to create the most cost-effective and substantively effective programs. This act provided funding for 34 counties in California to develop and implement postplea drug court programs. Drug courts in California thus far have received \$21 million from this partnership, and additional funding is anticipated not only from the Drug Court Partnership Act but also from a comprehensive drug court implementation act. The continued flow of funding illustrates that these courts are well on their way to demonstrating to every branch of government that they can play a significant and beneficial role in the administration of justice. . . .

#### EVALUATION

Here in California, we are developing a solid evaluation procedure. Two statewide programs will complement the many existing local evaluation processes. The council will be working with the state Department of Alcohol and Drug Programs to analyze results from the 34 adult postplea drug courts participating in the Drug Court Partnership Program. In addition, the U.S. Department of Justice, Office of Drug Court Programs, has awarded to the Administrative Office of the Courts a \$300,000 grant to be used to design a pilot information collection and evaluation system over the next two years. This project will be performed with the assistance of nationally recognized drug court evaluators, and will include a cost-benefit analysis as well as a review of best practices and outcomes. Eventually it will include every drug court in the state. This is the first such comprehensive, statewide effort.

## TAKE NOTE

For the full text of the Chief Justice's address, visit the California Courts Web site at [www.courtinfo.ca.gov/reference/documents/drugctco.pdf](http://www.courtinfo.ca.gov/reference/documents/drugctco.pdf).

Judicial Council Action

# Council Approves Uniform Court Rules in Civil Cases

The Judicial Council at its April 28 business meeting adopted uniform court rules for pretrial proceedings in civil cases. The council, working in collaboration with the State Bar of California and the California Judges Association, developed the rules as part of its long-range efforts to bring more uniformity and predictability to the wide variety of local court rules. The uniform rules took effect July 1, 2000, in all state trial courts.

“This is an important step in eliminating the confusing patchwork of local rules throughout our state courts,” says Chief Justice Ronald M. George. “We look forward to moving ahead in other areas of the law so that court

practices and procedures are more uniform and consistent.” The council amended eight rules and adopted a new rule that will govern seven areas of pretrial civil practice: pleadings, demurrers, ex parte applications, motions, discovery, provisional remedies, and the form and format of papers. The council’s action follows last year’s adoption of rule 981.1 of the California Rules of Court, which preempts local rules in these areas. All amended and new rules adopted by the council will appear in an upcoming volume of the advance sheets of the *California Official Reports*. These rules are also available online on the California Courts Web site at [www.courtinfo.ca.gov/rules/amendments.htm](http://www.courtinfo.ca.gov/rules/amendments.htm).

**OTHER ACTIONS**  
The council also took the following actions.  
► **Probation Services:** Approved the allocation of \$2.7 million in one-time funding to 26 trial courts to pay for mandatory probation services previously funded by counties. The council also approved a policy that all outstanding reporting errors for fiscal year 1996–1997 expenditures, which were used as the basis for establishing the authorized budgets for county-wide probation systems, must be conveyed to the Administrative Office of the Courts by December 31, 2000.  
► **Drug Court Funding:** Approved criteria for evaluating

drug court mini-grant applications for funding provided by the California Office of Criminal Justice Planning. This proposal was made by the Collaborative Justice Courts Advisory Committee.  
► **Child Support Commissioners:** On the recommendation of the Family and Juvenile Law Advisory Committee, approved the evaluation of the child support commissioner system and the forwarding of the resultant report to the Legislature as required by statute. (See story on page 4.)  
► **Amicus Curiae Briefs:** Amended court rules to allow the Attorney General to file an amicus curiae (friend of the court) brief without obtaining the permission of the Chief Justice or the presiding judge. The amended rule applies to briefs filed by the Attorney General’s office on its own behalf and specifies time limits in the Courts of Appeal for filing such a brief and for other parties to file an answer to it. ■

# 2000–2001 State Budget Highlights

On June 30, Governor Gray Davis approved a \$99.4 billion state budget for fiscal year 2000–2001, including \$2.4 billion in judicial branch funding. “The judicial budget is a result of the hard work of numerous dedicated individuals and committees,” says Chief Justice Ronald M. George. “Special thanks go to the Trial Court Budget Commission, chaired by Judge Ray Hart [Superior Court of Los Angeles County], for its tireless efforts in this process.”

Following are the features of the budget that will directly affect the judiciary.

**JUDICIAL SALARY INCREASE**  
Funding is provided to support an 8.5 percent salary increase for California’s judges, commissioners, and referees.

**NEW JUDGESHIPS**  
The budget includes \$11.090 million for the half-year funding of 20 new trial judgeships and 12 new appellate judgeships. However, legislation to create these new judgeships has not yet been passed.

**JURY REFORM**  
The budget provides funding for an increase in the juror per diem rate for the second and subsequent days of service from \$5 per day to \$15 per day (with payment for day one eliminated), effective July 1, 2000. It also provides funding for the implementation costs associated with the one-day/one-trial system.

**TECHNOLOGY INITIATIVES**  
A total of \$56.4 million is ap-

proved for various technology initiatives.  
**NEGOTIATED SALARY INCREASES**  
Funding is provided to address the negotiated salary increases for trial court and court security personnel.

**COUNTY-STATE TRANSITION COSTS**  
The budget includes \$8.608 million to cover the costs of the county-state transition resulting from the Trial Court Funding Act of 1997.

**CAPITAL OUTLAY**  
Funding of \$7.1 million is provided for a variety of capital outlay projects for the Courts of Appeal in the Second, Third, Fourth, and Fifth Appellate Districts.

**SUPREME COURT**  
Funding of \$625,000 is approved for six new positions to support court operations.

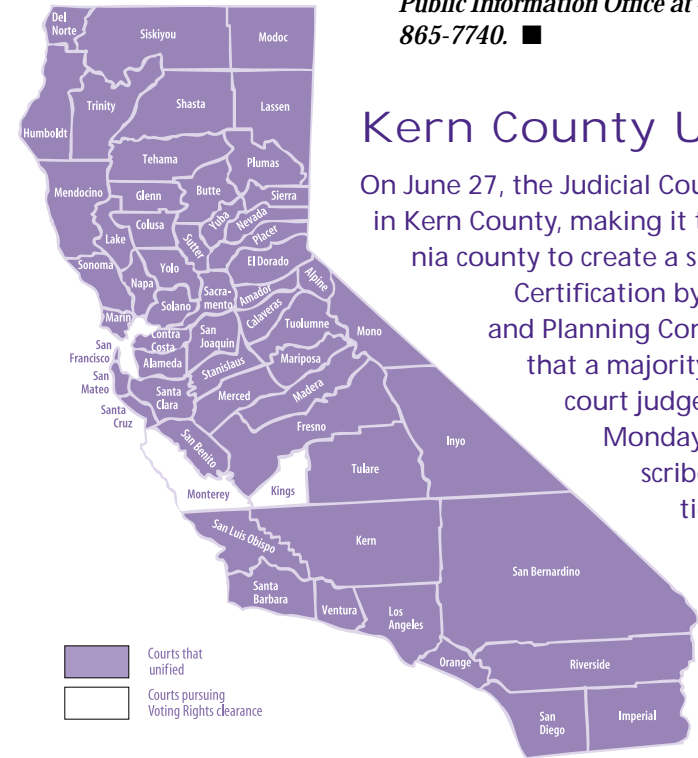
**COURT INTERPRETERS PROGRAM**  
The budget supports a statewide increase in the compensation rate for certified and registered court interpreters to \$265 per day, effective July 1, 2000.

**ELDER PROTECTIVE ORDERS**  
A total of \$1.175 million is approved to cover the additional costs that the trial courts will incur to process the increased numbers of protective orders expected to be requested by elders and dependent adults.

**FAMILIES AND CHILDREN**  
Funding totaling \$10 million is

provided to ensure that trial court systems throughout the state can carry out existing statutes, rules of court, Uniform Standards of Practice, and all other mandates for families’ and children’s services.  
**COURT-APPOINTED COUNSEL**  
The budget includes \$5.72 million to address increased costs associated with the appointment of counsel in juvenile dependency and family law proceedings.

**SUPERIOR COURT OF LOS ANGELES COUNTY MEDIATION PILOT PROGRAM**  
The Superior Court of Los Angeles County will receive \$506,000 to establish an early-mediation pilot program for civil cases.  
*For expanded coverage of the budget, including comments from both Chief Justice Ronald M. George and Administrative Director of the Courts William C. Vickrey, see the Court News Special Report. For information on the special report, contact the Public Information Office at 415-865-7740. ■*



## Kern County Unifies Courts

On June 27, the Judicial Council certified trial court unification in Kern County, making it the 56th and final eligible California county to create a single, countywide superior court. Certification by the Judicial Council’s Executive and Planning Committee followed formal notice that a majority of Kern’s superior and municipal court judges had approved unification on Monday, June 25, the final day of the prescribed 30-day voting period. Unification took effect July 1, 2000.

“The vote in Kern County represents an important milestone in trial court unification, as the majority of trial court judges in all California’s eligible counties have voted to unify their trial court operations,” says Chief Justice

Ronald M. George. “I congratulate the leadership of the Kern County trial courts for their vision and commitment to the continuous improvement of services for the public.” Court unification is designed to increase the public’s access to justice by adding flexibility in case assignments, consolidating court resources, and saving taxpayer dollars. Proposition 220, passed by California voters in June 1998, permits each county to unify court operations if a majority of the county’s municipal and superior court judges vote to do so. Kings and Monterey Counties are the only two California counties that are currently ineligible to vote for trial court unification. Both counties are designated as preclearance jurisdictions under the federal Voting Rights Act of 1965. They have filed for preclearance authorization from the U.S. Department of Justice.